

## 1130 DELEGATION OF AUTHORITY

### General Administration 26

### Equal Employment Opportunity Programs

Issuing Office: OD/OEO 496-6301

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1. **Explanation of Material Transmitted:** This delegation is being issued to amend the 7/23/96 subject delegation to the Director, Office of Equal Opportunity (OEO). This revised delegation extends to applicants for or members of the Commissioned Corps the rights accorded to other Federal employees under the provisions of 29 C.F.R. § 1614.

2. **Filing Instructions:**

**Remove:** NIH Manual 1130, General Administration No. 26, pages 3 and 4, dated 7/23/96

**Insert:** NIH Manual 1130, General Administration No. 26, pages 3 and 4, dated 7/06/98

3. **Distribution:** NIH Mailing Keys F-401, and F-402

**PLEASE NOTE:** To sign up for email notification of future changes, please go to the [NIH Manual Chapters LISTSERV](#) Web page.

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### Authority Delegated

1. To exercise personal leadership for establishing and maintaining EEO programs for the NIH.
2. This delegation includes authority to:
  - develop and implement required affirmative employment programs;
  - conduct community outreach activities;
  - select, train, and make EEO counselors available for mandatory pre-class and pre-individual discrimination complaint counseling, with particular emphasis being given to the establishment of alternative dispute resolution procedures to be used as adjuncts to precomplaint counseling;
  - provide EEO training to staff, volunteers, supervisors, managers and other personnel;
  - provide prompt, fair, and impartial consideration of complaints, charges, and claims, including matters presented by aggrieved employees to EEO counselors,

with emphasis on informal resolution of disputes;

- accept, dismiss, cancel and investigate individual and class complaints;
- provide complainants with a copy of the investigative file and notify them of their right to a hearing or an immediate final agency decision;
- conduct any required or appropriate inquiry and issue any subsequent written report as may be required under the Age Discrimination in Employment Act of 1967, as amended, and under applicable implementing instructions;
- approve settlement agreements (agreements including retroactive personnel actions and/or back pay require the concurrence of the appropriate servicing personnel officer or designee as to technical accuracy);
- award attorneys fees, in accordance with applicable laws and regulations;
- issue final decisions on the merits of those complaints for which the complainant does not timely request either a hearing or an immediate final decision; and
- request that the Commissioners of the Equal Employment Opportunity Commission (EEOC) reopen and reconsider a previous appellate decision of EEOC's Office of Federal Operations (OFO) concerning procedural dismissals or merit determinations made by NIH.

<b>To Whom Delegated</b>	<b>Area of Authority</b>
Director, Office of Equal Opportunity	NIH

All previous delegations of authority inconsistent with the provisions of this delegation are superseded.

### **Limitations**

This delegation excludes authority to:

- make the Department's final decision on the merits of complaints other than those delegated above;
- request that the Commissioners of the EEOC reopen and reconsider a previous appellate decision of the OFO in cases involving merit determinations by the Assistant Secretary for Management and Budget, OS; and
- process, investigate, and decide cases when the matter involves a conflict or potential conflict of interest because the complainant or claimant is under the direct management supervision of the Director, NIH, or that of the Director, OEO, or the matter involves an

action of the Director, NIH, the Director, OEO, or a staff or line official superior to the Director, OEO.

These authorities are retained by the Assistant Secretary for Management and Budget, OS.

The Assistant Secretary for Health and Surgeon General retains the authority to issue final agency decisions on complaints of discrimination filed by applicants for or member of the Commissioned Corps.\*

### **Redelegation**

These authorities may be redelegated subject to the following:

- the Director, NIH, shall provide personal guidance and supervision over the processing of any claims or charges that involve the action of a person who has an organizational peer relationship with the Director, OEO;
- the disposition of sensitive complaints shall be brought to the attention of the Deputy Director, NIH; and
- settlement agreements involving the expenditure of \$25,000 or more, including attorneys' fees if any, or those classified as sensitive by the Director, OEO, are subject to review by a committee consisting of the Deputy Director, NIH, the Deputy Director for Management, and the Director, OEO.

\* Modified in accordance with the March 2, 1998, memorandum from the Secretary, HHS, to the Assistant Secretary for Health and Surgeon General and Heads of Operating Divisions entitled: Delegations of Authority for EEO Program for the Commissioned Corps, which permits NIH to extend EEO program authorities delegated herein to applicants for and members of the Commissioned Corps.

### **Citations**

1. 5 U.S.C. 302; 29 CFR 1614
2. EEOC Management Directive 110
3. Memorandum from the Director, Equal Employment Opportunity, OS, to Heads of Operating Divisions, Assistant Secretary for Management and Budget, and Heads of Health Agencies, dated 9/20/95, entitled: Delegation of Authority to Establish and Maintain Equal Employment Opportunity Programs

/s/  
Harold Varmus, M.D.  
Director, NIH

\*Amended by memorandum from the Secretary, HHS, to the Assistant Secretary for Health and Surgeon General and Heads of Operating Divisions entitled: Delegations of Authority for EEO Program for the Commissioned Corps. Revised delegation effective 07/07/98.

Effective Date: July 23, 1996